

AMENDED IN SENATE APRIL 4, 2013

**SENATE BILL**

**No. 625**

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**Introduced by Senator Beall**

February 22, 2013

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An act to amend Section 10601.2 ~~of~~ *of, and to add Section 16521.6 to, the Welfare and Institutions Code, relating to child welfare.*

LEGISLATIVE COUNSEL'S DIGEST

SB 625, as amended, Beall. Child welfare: racial and ethnic disparities.

*Under existing law, the Dymally-Alatorre Bilingual Services Act, every state agency that makes contact with, and every local agency that serves, a substantial number of non-English-speaking people is required to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services in the language of the non-English-speaking person, as specified.*

Under existing law, the state, through the State Department of Social Services and county welfare departments, is required to establish and support a public system of statewide child welfare services for the protection of children. ~~Existing-~~

*This bill would prohibit the department and each county welfare department, and its vendors, from denying services to parents or children on the basis of the client's language, or discriminating against clients on the basis of race, color, or national origin in providing services to which clients are entitled. The bill would require the department, to the extent applicable, and each county welfare department to, among other things, determine and document the communication needs of each Hispanic parent and child, provide Spanish-speaking clients with information regarding child welfare*

*services in Spanish, and have adequate bilingual staff capacity to assign bilingual workers to Spanish-speaking families.*

*Existing law provides that when a child is removed from his or her family by the juvenile court, placement of the child in foster care should secure, as nearly as possible, the custody, care, and discipline equivalent to that which should have been given to the child by his or her parents.*

*This bill would require that care for children who are in the county welfare department's custody shall be linguistically and culturally equivalent to, as nearly as possible, the care provided by the children's parents. The bill would require that children of Spanish-speaking parents be placed with Spanish-speaking foster parents, and require that placement occur within 60 days from the date the children are removed from their homes.*

*Existing law requires the department to establish the California Child and Family Service Review System to review all county child welfare systems. Existing law requires the California Health and Human Services Agency to convene a workgroup, as prescribed, to establish a ~~workplan~~ *work plan* by which child and family service reviews shall be conducted. Existing law requires the workgroup to consider, among other things, measurable outcome indicators. Existing law requires the department to identify and promote the replication of best practices in child welfare service delivery to achieve these outcomes. Existing law requires the department to provide prescribed information to legislative committees relating to child welfare system improvements, as specified.*

*This bill would require the workgroup described above to examine outcome indicators for each racial and ethnic population served within a county. This bill would require a county to address in its self-assessment and system improvement plan, among other things, its efforts to eliminate disparities in services and outcomes for children of color in, and to provide adequate and culturally appropriate services within, its child welfare system, as specified. This bill would require the department to identify and promote best practices for increasing cultural competency in the provision of services and eliminating inequities in service delivery to racial and ethnic communities. This bill would authorize the director of the department to take specified actions if he or she determines a county substantially failed to comply with the requirements of its system improvement plan, as specified. This bill would require the department to report prescribed information relating to disparities for Latinos in the child welfare system to the Legislature by January 1, 2016.*

By imposing additional duties on counties relating to their self-assessments and system improvement plans *and other child welfare services*, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares the following:
- 2     (a) It is the intent of the Legislature to eliminate racial and ethnic
- 3     disproportionality in the child welfare system that is a result of the
- 4     unnecessary and avoidable removal of children from their families
- 5     and the failure to equitably serve all communities of color,
- 6     particularly the Latino community.
- 7     (b) Latinos make up nearly 38 percent of the population of the
- 8     state, but comprise over one-half of the overall child welfare
- 9     caseload. Specifically, disproportionality exists in certain counties
- 10    with a large Latino population. For example, in Santa Clara County,
- 11    nearly 64 percent of the foster care population is Latino, while the
- 12    Latino population in the county is around 25 percent. Furthermore,
- 13    despite the fact that more than one-half of the children served in
- 14    the state are Latino, Latinos have been omitted from recent state
- 15    projects and initiatives on disproportionality and improving foster
- 16    care outcomes, including the California Disproportionality Project
- 17    and California Partners for Permanency, a five-year pilot project
- 18    to reduce long-term foster care.
- 19    (c) Black children represent almost 6 percent of the state's
- 20    population of children and youth, but represent roughly 22 percent
- 21    of the population in care in the child welfare system. When
- 22    controlling for poverty, Black children enter the system at
- 23    approximately the same rate as White children, but remain in the
- 24    system at a rate that is almost one and one-half times the rate of
- 25    White children.

(d) Although there are variations by geographic area and across communities of color, children and youth from non-White racial and ethnic communities, overall, enter the child welfare system at a higher rate, are represented in the system at a higher percentage, and remain in the system longer than their White counterparts.

(e) Statistical disparities of children and youth of color in the child welfare system may be a result of numerous complex and interdependent factors, including poverty, classism, racism, limited cultural competence and diversity among staff and service providers, agency policies, and systemic practices, and limited access to services and resources, including prevention, family support, and mental health services.

(f) Many of the societal factors resulting in these disparities are not readily amenable to change by reforms in the child welfare system alone. Nonetheless, more can be done, for example, to eliminate disparities in services and supports provided and enhance the cultural competence of county staff and service providers. According to information gathered by the California Research Bureau in March 2012, at least 21 states are taking action to eliminate disproportionality in their child welfare systems. At least 12 states are taking action through legislation.

(g) Child welfare agencies must conduct thorough self-assessments, develop action plans, and monitor their progress if they are to eliminate inequities in the child welfare system.

SEC. 2. Section 10601.2 of the Welfare and Institutions Code is amended to read:

10601.2. (a) The State Department of Social Services shall establish, by April 1, 2003, the California Child and Family Service Review System, in order to review all county child welfare systems. These reviews shall cover child protective services, foster care, adoption, family preservation, family support, and independent living.

(b) Child and family service reviews shall maximize compliance with the federal regulations for the receipt of money from Subtitle E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) and ensure compliance with state plan requirements set forth in Subtitle B (commencing with Section 421) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 621 et seq.).

(c) (1) The California Health and Human Services Agency shall convene a workgroup comprised of representatives of the Judicial Council, the State Department of Social Services, the State Department of Health Care Services, the State Department of Education, the Department of Justice, any other state departments or agencies the California Health and Human Services Agency deems necessary, the County Welfare Directors Association, the California State Association of Counties, the Chief Probation Officers of California, the California Youth Connection, and representatives of California tribes, interested child advocacy organizations, researchers, and foster parent organizations. The workgroup shall establish a work plan by which child and family service reviews shall be conducted pursuant to this section, including a process for qualitative peer reviews of case information.

(2) At a minimum, in establishing the work plan, the workgroup shall consider any existing federal program improvement plans entered into by the state pursuant to federal regulations, the outcome indicators to be measured, compliance thresholds for each indicator, timelines for implementation, county review cycles, uniform processes, procedures and review instruments to be used, a corrective action process, and any funding or staffing increases needed to implement the requirements of this section. The agency shall broadly consider collaboration with all entities to allow the adequate exchange of information and coordination of efforts to improve outcomes for foster youth and families.

(d) (1) The California Child and Family Service Review System outcome indicators shall be consistent with the federal child and family service review measures and standards for child and family outcomes and system factors authorized by Subtitle B (commencing with Section 421) and Subtitle E (commencing with Section 470) of Title IV of the federal Social Security Act and the regulations adopted pursuant to those provisions (Parts 1355 to 1357, inclusive, of Title 45 of the Code of Federal Regulations).

(2) During the first review cycle pursuant to this section, each county shall be reviewed according to the outcome indicators established for the California Child and Family Service Review System.

(3) For subsequent reviews, the workgroup shall consider whether to establish additional outcome indicators that support the federal outcomes and any program improvement plan, and promote

1 good health, mental health, behavioral, educational, and other  
2 relevant outcomes for children and families in California's child  
3 welfare services system.

4 (4) Outcome indicators shall be examined separately for each  
5 racial and ethnic population served within the county to assist in  
6 identifying and developing strategies to eliminate inequities in the  
7 services provided and disparities in outcomes among the  
8 populations served.

9 (5) The workgroup shall convene as necessary to update the  
10 outcome indicators described in paragraph (1).

11 (e) (1) (A) Based on its review cycle, each county shall address  
12 in detail in the county self-assessment and county system  
13 improvement plan, the county's strategies, ongoing efforts, and  
14 planned activities, including timeframes for implementation, to  
15 adequately assess the bases for, and address, disproportionality in  
16 its child welfare system, to eliminate any disparities identified in  
17 services and outcomes for children of color in the county's child  
18 welfare system, and to provide adequate and culturally appropriate  
19 services for majority and minority populations, particularly the  
20 Latino, Black, and Native American populations. These may  
21 include, but are not limited to, prevention services and supports  
22 for families of children at risk of placement in the county child  
23 welfare system and the use of culturally competent staffing,  
24 resources, and practices.

25 (B) A county's self-assessment and system improvement plan  
26 shall also address strategies for improving and expediting  
27 permanent outcomes for children and youth from communities of  
28 color that are overrepresented in the county's child welfare system,  
29 including, but not limited to, developing collaborative partnerships  
30 with families and community-based organizations and strategies  
31 to identify and recruit kin and nonkin adoptive families.

32 (2) Unless a county's review cycle pursuant to this section has  
33 a system improvement plan due on or after January 1, 2014, and  
34 before January 1, 2015, the county shall amend its most recent  
35 system improvement plan by December 31, 2014, to address the  
36 issues identified in paragraph (1).

37 (3) If the director determines that a county is substantially failing  
38 to comply with the requirements of its system improvement plan  
39 pursuant to this subdivision to adequately assess the bases for, or  
40 address, disproportionality in its child welfare system, or to ensure

1 the provision of adequate and culturally appropriate services to  
2 majority and minority communities within the county, the director  
3 may take any appropriate action, including providing enhanced  
4 technical assistance to the county, requiring the county to conduct  
5 additional self-assessments and adopt system improvement plan  
6 amendments, or other remedial actions as authorized under this  
7 chapter.

8 (f) The State Department of Social Services shall identify and  
9 promote the replication of best practices in child welfare service  
10 delivery to achieve the measurable outcomes established pursuant  
11 to subdivision (d), including best practices for increasing cultural  
12 competency in the provision of services and eliminating inequities  
13 in the delivery of services that result in disparities in outcomes  
14 among racial and ethnic populations, particularly the Latino, Black,  
15 and Native American communities.

16 (g) The State Department of Social Services shall provide  
17 information to the Assembly and Senate Budget Committees and  
18 appropriate legislative policy committees annually, beginning with  
19 the 2002–03 fiscal year, on all of the following:

20 (1) The department’s progress in planning for the federal child  
21 and family service review to be conducted by the United States  
22 Department of Health and Human Services and, upon completion  
23 of the federal review, the findings of that review, the state’s  
24 response to the findings, and the details of any program  
25 improvement plan entered into by the state.

26 (2) The department’s progress in implementing the California  
27 child and family service reviews, including, but not limited to, the  
28 timelines for implementation, the process to be used, and any  
29 funding or staffing increases needed at the state or local level to  
30 implement the requirements of this section.

31 (3) The findings and recommendations for child welfare system  
32 improvements identified in county self-assessments and county  
33 system improvement plans, including information on efforts to  
34 assess the bases for, and address, disproportionality and disparities  
35 in services and outcomes for children of color, common statutory,  
36 regulatory, or fiscal barriers identified as inhibiting system  
37 improvements, any recommendations to overcome those barriers,  
38 and, as applicable, information regarding the allocation and use  
39 of the moneys provided to counties pursuant to subdivision (j).

(h) Effective April 1, 2003, the existing county compliance review system shall be suspended to provide to the State Department of Social Services sufficient lead time to provide training and technical assistance to counties for the preparation necessary to transition to the new child and family service review system.

(i) Beginning January 1, 2004, the department shall commence individual child and family service reviews of California counties. County child welfare systems that do not meet the established compliance thresholds for the outcome measures that are reviewed shall receive technical assistance from teams made up of state and peer-county administrators to assist with implementing best practices to improve their performance and make progress toward meeting established levels of compliance.

(j) (1) To the extent that funds are appropriated in the annual Budget Act to enable counties to implement approaches to improving their performance on the outcome indicators under this section, the department, in consultation with counties, shall establish a process for allocating the funds to counties.

(2) The allocation process shall take into account, at a minimum, the extent to which the proposed funding would be used for activities that are reasonably expected to help the county make progress toward the outcome indicators established pursuant to this section, and the extent to which county funding for the ~~Child Abuse Prevention and Treatment~~ *child abuse prevention and treatment* program is aligned with the outcome indicators.

(3) To the extent possible, a county shall use funds in a manner that enables the county to access additional federal, state, and local funds from other available sources. However, a county's ability to receive additional matching funds from these sources shall not be a determining factor in the allocation process established pursuant to this subdivision.

(4) The department shall provide information to the appropriate committees of the Legislature on the process established pursuant to this subdivision for allocating funds to counties.

(k) (1) Counties shall continue to be responsible for and accountable to the department for child welfare program performance measures, including all of the following:

(A) The outcome and systemic factor measures contained in the federal Department of Health and Human Services Child and



1 Family Services Review Procedures Manual, Appendix B, Index  
2 of Outcomes and Systemic Factors, and Associated Items and Data  
3 Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c)  
4 of Title 45 of the Code of Federal Regulations.

5 (B) Information and other requirements necessary for the  
6 California Child and Family Service Review System, as required  
7 pursuant to this section.

8 (C) Monthly caseworker visits with a child in care.

9 (D) Timeliness to begin an investigation of allegations of child  
10 abuse or neglect.

11 (E) Notwithstanding the rulemaking provisions of the  
12 Administrative Procedure Act (Chapter 3.5 (commencing with  
13 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
14 Code), other performance measures resulting from new federal  
15 mandates or court decrees as specified in an all-county letter issued  
16 by the department.

17 (2) The department shall monitor, on an ongoing basis, county  
18 performance on the measures specified in paragraph (1).

19 (3) At least once every five years, the department shall conduct  
20 a comprehensive review of county performance on the measures  
21 specified in paragraph (1).

22 (4) (A) The department shall periodically update the process  
23 guides utilized by counties to prepare the self-assessments and  
24 system improvement plans to promote implementation and  
25 evaluation of promising practices and use of data.

26 (B) The process guides also shall include, but not be limited to,  
27 both of the following:

28 (i) County evaluation of demographics for the children and  
29 families served and effectiveness of the system improvement  
30 activities for these populations.

31 (ii) A description of the process by which the department and  
32 counties shall develop mutually agreed upon performance targets  
33 for improvement.

34 (5) The department, in consultation with counties, shall develop  
35 a process for resolving any disputes regarding the establishment  
36 of appropriate targets pursuant to the process provided in paragraph  
37 (4).

38 (6) A county shall submit an update to the department, no less  
39 than annually, on its progress in achieving improvements from the  
40 county's baseline for the applicable measure. The department may

1 require a county that has not met its performance targets to submit  
2 and implement a corrective action plan, as determined by the  
3 director.

4 (l) Beginning in the 2011–12 fiscal year, and for each fiscal  
5 year thereafter, funding and expenditures for programs and  
6 activities required under this section shall be in accordance with  
7 the requirements provided in Sections 30025 and 30026.5 of the  
8 Government Code.

9 (m) (1) The department shall contract for research evaluating  
10 the disproportionate representation of, and inequities in services  
11 for, Latino children and families in the child welfare system, using  
12 existing resources or by identifying private funding, and issue a  
13 report to the Legislature and to the Governor, including findings  
14 and recommendations, by January 1, 2016.

15 (2) (A) The requirement for submitting a report imposed under  
16 paragraph (1) is inoperative on January 1, 2020, pursuant to Section  
17 10231.5 of the Government Code.

18 (B) A report to be submitted pursuant to paragraph (1) shall be  
19 submitted in compliance with Section 9795 of the Government  
20 Code.

21 *SEC. 3. The Legislature finds and declares the following:*

22 (a) *On January 14, 1977, the Burgos Consent Decree was*  
23 *entered by the court to end class action litigation between Hispanic*  
24 *families and the Illinois Department of Children and Family*  
25 *Services (IDCFS). The plaintiffs in the case argued that Hispanic*  
26 *families were being excluded from full participation in, and were*  
27 *being denied the benefits of and being subjected to discrimination*  
28 *on the basis of their national origin and race in, those child and*  
29 *family services programs, and sought relief pursuant to Title VI*  
30 *of the Civil Rights Act of 1964.*

31 (b) *The Burgos Consent Decree sought to ensure that Hispanic*  
32 *families who are Spanish speaking are provided with full and*  
33 *adequate services by IDCFS. The decree ordered the IDCFS and*  
34 *its vendors to provide child welfare service in Spanish to Hispanic*  
35 *clients whose primary language is Spanish, required children with*  
36 *Spanish-speaking parents to be placed with Spanish-speaking*  
37 *foster parents, and required individual or general written*  
38 *communications to Spanish-speaking clients to be in Spanish.*

39 (c) *It is the intent of the Legislature to adopt the policies outlined*  
40 *in the Burgos Consent Decree to ensure that Spanish-speaking*

1 *Hispanic families within California are provided with full and*  
2 *adequate child welfare services.*

3 *SEC. 4. Section 16521.6 is added to the Welfare and Institutions*  
4 *Code, to read:*

5 *16521.6. (a) The department and each county welfare*  
6 *department, and its vendors, shall not deny services to parents or*  
7 *children on the basis of the client's language, or discriminate*  
8 *against clients on the basis of race, color, or national origin in*  
9 *providing services to which clients are entitled.*

10 *(b) For purposes of this section, "Hispanic" includes, but is*  
11 *not limited to, persons with Puerto Rican, Mexican, Central*  
12 *American, or South American origins.*

13 *(c) The department, to the extent applicable, and each county*  
14 *welfare department shall do all of the following:*

15 *(1) Advertise the availability of bilingual services and*  
16 *interpreters to Spanish-speaking families seeking services by*  
17 *posting a notice in both Spanish and English in a conspicuous*  
18 *place within its office and making reasonable efforts to advertise*  
19 *the availability of bilingual services and interpreters in the Spanish*  
20 *media.*

21 *(2) Identify Hispanic clients and have them sign a primary*  
22 *language determination form in English and Spanish that indicates*  
23 *their language of preference. This determination shall be completed*  
24 *by a bilingual social worker.*

25 *(3) At first contact, determine and document the communication*  
26 *needs of each Hispanic parent and child.*

27 *(4) Provide Spanish-speaking clients with information regarding*  
28 *child welfare services in Spanish, including Spanish translation*  
29 *of any literature, correspondence, form, or document directed to*  
30 *them.*

31 *(5) Establish a procedure to translate to Spanish all relevant*  
32 *materials as soon as those materials are developed.*

33 *(6) Ensure, if translation services were required, that any*  
34 *document requiring the client's signature on an English version*  
35 *of a form also include a signed affidavit from the bilingual*  
36 *employee who served as translator stating that he or she provided*  
37 *those translation services.*

38 *(7) Ensure that minors are not used as interpreters under any*  
39 *circumstance.*

1     (8) *Have adequate bilingual staff capacity to assign bilingual*  
2 *workers to Spanish-speaking families.*

3     (9) *Have a bilingual staff person to provide Spanish-speaking*  
4 *clients with assistance on specific inquiries or complaints*  
5 *concerning the provision of child welfare services.*

6     (10) *Ensure that bilingual workers are not overburdened with*  
7 *substantially higher caseloads than their English-speaking*  
8 *counterparts.*

9     (11) *Provide Spanish-speaking families with bilingual social*  
10 *workers and bilingual employees to provide child welfare services.*

11     (12) *Provide, and ensure that its vendors provide, to*  
12 *Spanish-speaking families essential and adjunct child welfare*  
13 *services in Spanish, including any service involving direct client*  
14 *contact and communication.*

15     (13) *Maintain records identifying all social workers and vendors*  
16 *providing child welfare services, and whether bilingual workers*  
17 *and services are available.*

18     (14) *Develop a procedure to determine the language fluency of*  
19 *its vendors and foster parents, and to ensure that it does not*  
20 *contract for services with a vendor that cannot provide services*  
21 *in the appropriate language.*

22     (15) *Conduct an annual civil rights compliance review for each*  
23 *vendor with whom it has contracted to provide services to*  
24 *Spanish-speaking clients.*

25     (16) *Maintain records identifying by national origin and primary*  
26 *language all Hispanic clients receiving child welfare services, and*  
27 *maintain key information to adequately track compliance.*

28     (17) *Train, at least once each fiscal year, all employees with*  
29 *direct client contact, supervisors, and administrative staff with*  
30 *substantial client contact responsibilities on the requirements of*  
31 *this section.*

32     (d) (1) *Care for children who are in the county welfare*  
33 *department's custody shall be linguistically and culturally*  
34 *equivalent to, as nearly as possible, the care provided by the*  
35 *children's parents. Children of Spanish-speaking parents shall be*  
36 *placed with Spanish-speaking foster parents, and placement shall*  
37 *occur within 60 days from the date the children are removed from*  
38 *their homes.*

39     (2) (A) *Each county welfare department shall submit a monthly*  
40 *report to the department with a list of all Spanish-speaking children*

1 *improperly placed in English-speaking homes during the prior*  
2 *month. The report shall be cumulative and include a summary of*  
3 *all measures the county has taken to locate child welfare services*  
4 *for each child who has not been properly placed.*

5 *(B) The report shall include the following information for each*  
6 *placement violation: the identification number, date of birth, sex,*  
7 *language, and race and ethnicity of the child; the date and reason*  
8 *for opening the case; the name of, and language spoken by, the*  
9 *social worker; the current type and date of placement; the number*  
10 *of days in substitute care and the name of the private agency and*  
11 *vendor, if applicable, and the name and race and ethnicity of, and*  
12 *language spoken by, the foster parents.*

13 *SEC. 5. If the Commission on State Mandates determines that*  
14 *this act contains costs mandated by the state, reimbursement to*  
15 *local agencies and school districts for those costs shall be made*  
16 *pursuant to Part 7 (commencing with Section 17500) of Division*  
17 *4 of Title 2 of the Government Code.*